

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

UNITED STATES OF AMERICA,                     )  
   )  
          Plaintiff,                                 )  
   )  
v.   ) No.  
   )  
GAMBRO SUPPLY CORP. f/k/a REN             )  
SUPPLY CORPORATION,                         )  
   )  
          Defendant.

**INFORMATION**

**COUNT I**

The United States Attorney charges that:

1. At all relevant times, Defendant Gambro Supply Corp., formerly known as REN Supply Corporation (“Defendant” or “REN Supply”), was a Tennessee corporation doing business in the Eastern District of Missouri and participating in the federal Medicare program as a supply company providing home dialysis supplies and equipment to home dialysis patients via interstate commerce;
2. The Medicare program is a health care benefit program administered by the Centers for Medicare and Medicaid Services (“CMS”);
3. There exist two methods under Medicare for the provision of home dialysis supplies, equipment and support services to Medicare beneficiaries. Under Method I, a dialysis facility provides all equipment, supplies and support services to the Medicare beneficiary. The dialysis facility then bills Medicare. Under Method II, a durable medical equipment, prosthetics, orthotics and supplies company (hereinafter “supply company”) provides all necessary equipment

and supplies to the Medicare beneficiary, and a dialysis facility provides support services to the beneficiary. The supply company then bills Medicare for the supplies and equipment, and the dialysis facility bills Medicare for the support services;

4. Under Method I, Medicare reimburses the dialysis facility approximately \$1,490 per month per beneficiary. Under Method II, depending on the treatment modality of the home patient, Medicare reimburses the supply company (for supplies and equipment) and the dialysis facility (for the support services) a total of approximately \$1,974 per month per beneficiary. For certain Medicare beneficiaries, therefore, Medicare reimburses a supply company providing equipment and supplies and a dialysis facility providing support services under Method II as much as \$484 more (per month per beneficiary) than a dialysis facility providing the same equipment, supplies and support services under Method I;

5. At all relevant times, federal regulation 42 C.F.R. 414.330(a)(2)(i) prohibited a dialysis facility from being a supply company and supplying home dialysis equipment and supplies to Medicare beneficiaries who selected Method II. In essence, a dialysis facility was only permitted to bill Medicare for supplies and equipment under Method I. A dialysis facility was not permitted to act as a supply company and bill for supplies and equipment at the higher reimbursement rates paid to a supply company under Method II;

6. On or about May 13, 1993, in the jurisdiction of the United States, REN Supply submitted a Medical Supplier Number Application to the Department of Health and Human Services ("HHS"), an agency of the United States government, on Form HCFA-192 (1-92) ("1993 Application"). REN Supply was seeking to obtain and/or renew its supplier number in order to participate in Medicare as a Method II supply company;

7. Section 5 (C) of the 1993 Application required disclosure of the identity of the supply company's parent company and the parent company's employer identification number ("EIN"). At the time REN Supply completed the 1993 Application, REN Supply was a wholly-owned subsidiary of REN Corporation USA ("REN USA"). REN USA was the owner and operator of numerous dialysis facilities;

8. REN Supply knowingly and willfully left Section 5 (C) of its 1993 Application blank, providing neither its parent company's identity nor EIN as required;

9. The 1993 Application provided that "disclosure of ownership and control information" was necessary for, among other purposes, "to identify owners and managing employees of businesses which bill the Medicare program and companies to which they are related";

10. Above the signature line on the 1993 Application appeared the following attestation statement: "I understand that any misrepresentation or concealment of material information may subject me to liability under civil and criminal laws";

11. REN Supply authorized the execution of the attestation statement knowing that REN Supply was a wholly-owned subsidiary of REN USA, and knowing that REN USA, an owner and operator of dialysis facilities, was not permitted to bill Medicare as a Method II supply company;

12. On or about February 25, 1996, REN Supply submitted a reenrollment form to the National Supplier Clearinghouse ("NSC") ("1996 Reenrollment"). The NSC is an entity contracted by CMS (then known as the Health Care Financing Administration) to issue supplier numbers, verify application information, and maintain supplier data;

13. The 1996 Reenrollment required REN Supply to review the information contained on

the form, make any necessary additions or corrections, and then submit an attestation statement to the NSC verifying the accuracy of the information on the reenrollment form. The attestation statement provided, immediately above the signature line, that “WHOEVER KNOWINGLY AND WILLFULLY MAKES OR CAUSES TO BE MADE A FALSE STATEMENT, MAY BE PROSECUTED UNDER APPLICABLE FEDERAL, OR STATE LAWS . . .”;

14. The 1996 Reenrollment contained at line 5.C. the description “Name of Parent Company” and then a blank space where such parent company would be named. Once again, REN Supply left this space blank, and in so doing, knowingly and willfully failed to identify its parent company, which was REN USA;

15. REN Supply authorized the execution of the attestation statement for the 1996 Reenrollment knowing that REN Supply was a wholly-owned subsidiary of REN USA, and knowing that REN USA, as an owner and operator of dialysis facilities, was not permitted to bill Medicare as a Method II supply company;

16. REN Supply’s concealment, on both the 1993 Application and the 1996 Reenrollment, of its status as a wholly-owned subsidiary of REN USA was material because it prevented the United States, through its agencies and contractors, from investigating the relationship between REN Supply and its parent REN USA. It further concealed the fact that REN Supply, as a wholly-owned subsidiary of REN USA, which was an owner and operator of dialysis facilities, was participating in the Medicare program in violation of 42 C.F.R. 414.330(a)(2)(i);

17. By virtue of these multiple acts of concealment, REN Supply defrauded Medicare of approximately \$484 per patient per month for certain Medicare beneficiaries, as this was the

approximate additional amount reimbursed by Medicare to a supply company under Method II, as compared to a dialysis facility under Method I;

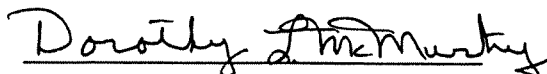
18. On or about July 22, 1998, an inspector from Choicepoint, a CMS contractor, conducted an on-site investigation of Defendant. At that time, Defendant was known as Gambro Healthcare Patient Services Supply Corp., having changed its name on April 12, 1996;

19. It was not until this inspection that Defendant revealed to HHS and CMS, via its contractor Choicepoint, that Defendant was related to a company, namely Gambro Healthcare Patient Services, Inc., that owned and operated dialysis facilities. It was not until July 22, 1998, therefore, that Defendant corrected its prior false statements and/or material omissions made in connection with its 1993 Application and 1996 Reenrollment; and

20. Therefore, from May 13, 1993 until June 22, 1998, Defendant knowingly and willfully executed a scheme to defraud Medicare by billing as a Method II supply company, in violation of 18 U.S.C. § 1347.

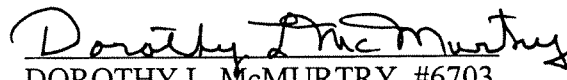
Respectfully submitted,

JAMES G. MARTIN  
United States Attorney

  
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UNITED STATES OF AMERICA       )  
EASTERN DIVISION                )  
EASTERN DISTRICT OF MISSOURI   )

I, Dorothy L. McMurtry, Assistant United States Attorney for the Eastern District of Missouri, being duly sworn, do say that the foregoing information is true as I verily believe.

  
DOROTHY L. McMURTRY, #6703

Subscribed and sworn to before me this 23 day of November 2004.

  
CLERK, U.S. DISTRICT COURT

By:   
DEPUTY CLERK